

**THE AUTHORITY FOR ADVANCE RULINGS  
IN KARNATAKA  
GOODS AND SERVICES TAX  
VANIJYA THERIGE KARYALAYA, KALIDASA ROAD  
GANDHINAGAR, BENGALURU - 560 009**

**Advance Ruling No.KAR ADRG 17/ 2022**

**Dated: 01-07-2022**

Present:

1. Dr. M.P. Ravi Prasad  
Additional Commissioner of Commercial Taxes . . . . Member (State)
2. Sri. T. Kiran Reddy  
Additional Commissioner of Customs & Indirect Taxes . . . . Member (Central)

1.	Name and address of the applicant	M/s. Karnataka Secondary Education Examination Board, 2nd Floor, 6th Cross, Malleswaram, Bengaluru-560 003.
2.	GSTIN or User ID	29AAAGD0301E1DG
3.	Date of filing of Form GST ARA-01	09-02-2022
4.	Represented by	Shri Veerabasana Gouda S, Chartered Accountant
5.	Jurisdictional Authority - Centre	-
6.	<b>Jurisdictional Authority - State</b>	ACCT, LGSTO-130, Bengaluru
7.	Whether the payment of fees discharged and if yes, the amount and CIN	Yes, discharged fee of Rs.5,000-00 under CGST Act and Rs.5,000-00 under SGST Act vide CIN No.UBIN21122900003794 Dated 01-12-2021

**ORDER UNDER SECTION 98(4) OF THE CGST ACT, 2017  
& UNDER SECTION 98(4) OF THE KGST ACT, 2017**

M/s. Karnataka Secondary Education Examination Board (hereinafter referred to as the applicant), 2nd Floor, 6th Cross, Malleswaram, Bangalore-560 003, having GSTIN 29AAAGD0301E1DG have filed an application for Advance Ruling under Section 97 of CGST Act, 2017 read with Rule 104 of CGST Rules, 2017 and Section 97 of KGST Act, 2017 read with Rule 104 of KGST Rules, 2017, in form GST ARA-01 discharging the fee of Rs.5,000/- each under the CGST Act and the KGST Act.

2. M/s. Karnataka Secondary Education Examination Board is an independent Board with statutory powers established by the Karnataka Secondary Education Examination





Board Act, 1966 for the purpose of holding and conducting certain public examinations. The Applicant is also registered under the provisions of Central Goods and Services Tax Act, 2017 as well as Karnataka Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and KGST/SGST Act respectively).

**3. The applicant has sought advance ruling in respect of the following questions:**

- i. *Whether the Applicant is an "educational institution" and ought to be treated as such for the purposes of applicability of GST?*
- ii. *Whether the activity of printing of the following items of stationery on behalf of educational institutions constitutes a supply of service:*
  - a. *question papers,*
  - b. *admit cards,*
  - c. *answer booklets*
  - d. *SSLC Pass Certificate, the overprinting of variable data and lamination.*
  - e. *Fail Marks cards*
  - f. *Circulars, ID card and other formats used for and during examinations.*
  - g. *Envelopes for packing answer booklets*

*If yes, whether the service provided to educational institutions by way of printing of stationery and other services incidental to the conduct of examination by such institutions would be covered by Sr.No.66 (Heading 9992) of Notification No.12/2017-Central Tax (Rate), as amended and subject to Nil rate of tax.*

- iii. *Whether the following incidental services provided to or performed on behalf of educational institutions are also services that are covered by Sr.No.66 (Heading 9992) of Notification No.12/2017-Central Tax (Rate), as amended and subject to Nil rate of tax:*
  - a. *scanning of answer booklets and converting the same into digital images;*
  - b. *hiring of light motor vehicles and heavy motor vehicles for transportation of examination materials;*
  - c. *annual maintenance of computers and equipment;*
  - d. *obtaining the services of programmers and technical staff for examination related work; and*
  - e. *Obtaining Group 'D' staff, Drivers, Data Entry Operators, Security Guards & House Keeping services related for SSLC Examination work.*

**4. Admissibility of the application:** The question is about the "Applicability of a notification issued under the provisions of this Act" and hence is admissible under Section 97(2)(b) of the CGST Act 2017.

**5. BRIEF FACTS OF THE CASE:** The applicant furnishes some facts relevant to the issue:

5.1 The Applicant is an independent Board with statutory powers established by the Karnataka Secondary Education Examination Board Act, 1966 for the purpose of holding and conducting certain public examinations.



5.2 The Applicant states that the Board is a Body corporate, whose Chairman as per the Act is the ex-officio Commissioner for Public Instruction; the Vice-Chairman/Director, an Officer of the Department of Public Instruction; and all the other members who are either ex-officio members, elected members and nominated members as prescribed in Section 4 of the said Act.

5.3 The Applicant states that the functions of the Board involve the conduct of the SSLC Examination. As such, the applicant performs all activities in relation to the conduct of examinations, declaration of results and so on, and for this purpose it engages in procurement activities for stationery and examination materials and outsources activities like maintenance of computer hardware and software.

5.4 The Applicant states that their main activities are printing of examination papers, answer booklets/answer scripts, marks cards, examination admit cards, Circulars pertaining to the activities and functioning of the Board etc. in different formats, for which the Board maintains full ownership of all content to be printed, but the actual printing activity itself is done by third parties decided on a process of tender invitation and competitive bidding.

## **6. Applicant's Interpretation of Law:**

6.1 The applicant's contention is that it ought to be classified as an educational institution stems from the following:

6.1.1 Section 21(aa) of the Karnataka Education Act, 1983 defines "educational institutions" as follows:

*(aa) "educational institutions" means any University, any college affiliated to or maintained by the University, any junior college, any school or institution imparting primary, secondary or technical education and includes the Karnataka State Secondary Education Examination Board, the Karnataka State Board of Technical Education, the Karnataka Pre-University Board and such other institution or classes of institution as may be notified by the State Government in the official Gazette:*

6.1.2 "Educational institution" as defined in Clause 2(y) of the GST Notification 12/2017 Central Tax (Rate) reads as follows:

*(y) "educational institution" means an institution providing services by way of, - (i) pre-school education and education upto higher secondary school or equivalent; (ii) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force; (iii) education as a part of an approved vocational education course;";*

Further, clause (iv) of Explanation of the said notification reads as below:

*(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students"*





6.1.3 The Applicant states that the legislative intent herein is very clear in that it defines "educational institution" as one which provides services facilitating in obtaining a qualification recognized by any law in force. Examinations form an integral part of this process of obtaining a degree, and are in fact the determinant factor for whether a particular student obtains the said qualification or not. As such, they are "educational institutions".

6.1.4 The Applicant submits that they being an examination Board, falls within the ambit of the term "educational institution" by virtue of judgments not only of different High Courts but also affirmed by the Supreme Court. It has been held on several occasions that have the nature and functions being discharged by Boards and authorities constituted by the State Government and have held them to be educational institutions.

6.1.5 The Applicant has relied on the decision of the judgment of the Gujarat High Court in the case of Sahitya Mudranalaya Private Limited Vs Additional Director General, adjudicated by the Gujarat High Court on 29-01-2020, which was affirmed by the Supreme Court also held that *examination are an indispensable component of education, without which such education is incomplete. Therefore, to say that Boards/Universities are not "educational institutions" would amount to divorcing examinations from education.*

6.1.6 Clause (1) of Section 66D of the Finance Act may be examined in the light of the above. Sub-clause (i) of clause (1) refers to pre-school education and education upto higher secondary school or equivalent. When the sub-clause says education upto higher secondary school or equivalent, it goes without saying that it includes the examination leading to conferment of a certificate of having passed the higher secondary school or equivalent. Similarly when sub-clause (ii) says education as a part of the curriculum for obtaining a qualification recognized by any law for the time being in force, it is apparent that the Legislature meant the entire process of preparation of curriculum to the holding of examination leading to obtaining of a qualification recognized by any law for the time being in force. If the contribution of the Boards/Universities is excluded, there would be no curriculum for obtaining a qualification nor would there be examination leading to conferment of such qualification. Therefore, it was not the intention of the Legislature to exclude preparation of curriculum and holding of examinations from the ambit of clause(1) of Section 66D of the Finance Act, 1994. Therefore, the School Boards and the University in question would clearly fall within the ambit of the expression "educational institution" as contemplated under clause (oa) of Entry No.2 of Notification No.25/2012-S.T and services provided by such Boards/University would also fall within the ambit of the services as postulated under clause (1) of Section 66D of the Finance Act.

6.1.7 The Government of India has also adopted a similar approach in its Notification No.14/2018-Central Tax (Rate), dated 26<sup>th</sup> July, 2018 issued in exercise of powers conferred by sub-section (1) of Section 11 of the Central Goods and Services Tax Act, 2017, wherein it has been clarified that the Central and State Educational Boards shall be treated as educational institutions for the limited purpose of providing services by way of conduct of examination to the students.





6.1.8 The Applicant submits that, they being an Examination Board established for the purposes of conducting certain examinations is an educational institution as held and affirmed by various case laws as well as by the legislative intent conveyed in the Karnataka Education Act and the Notifications issued under GST.

6.2 The Applicant is of the view that the incidental services provided to the Board or performing on behalf of the Board, of scanning of answer booklets and converting the same into digital images; hiring of light motor vehicles and heavy motor vehicles for transportation of examination materials; annual maintenance of computers and equipment; and obtaining the services of programmers and technical staff on outsource basis for examination related work are all indisputably and unambiguously classified as services and not goods.

6.2.1 By virtue of their classification as services, they would fall under the ambit of the same Sl.No.66 (Heading 9992) of the Notification 12/2017 Central Tax (Rate) which provides that services relating to admission to, or conduct of examination by, such [educational] institution are liable to be charged GST at Nil rate. There is no limitation or restriction attached to the word "services", and therefore the entry is deemed to include all services provided to educational institutions within its ambit, and subject them to Nil rate of GST.

6.2.3 The Applicant submits that the incidental services supplied to the Applicant would be supply of services, which are also liable to Nil rate of GST as per the Notification quoted above.

#### **PERSONAL HEARING / PROCEEDINGS HELD ON 10-02-2022 & 14-03-2022**

7. Shri Veerabasana Gouda S, Chartered Accountant and Duly Authorised Representative appeared for personal hearing proceedings held on 10-02-2022 & 14-03-2022 and reiterated the facts narrated in their application.

#### **FINDINGS & DISCUSSION**

8. At the outset we would like to make it clear that the provisions of CGST Act, 2017 and the KGST Act, 2017 are in pari-materia and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act would also mean reference to the corresponding similar provisions in the KGST Act.

9. We have considered the submissions made by the applicant in their application for advance ruling. We have also considered the issues involved on which advance ruling is sought by the applicant and the relevant facts along with the arguments made by the applicant and also their submissions made during the time of personal hearing.

10. The Applicant is Karnataka Secondary Education Examination Board (KSEEB for brevity) which is established for the purpose of holding and conducting public



examinations. The applicant likes to know whether it is an “educational institution” for the purposes of applicability of GST. Notification No.14/2018-Central Tax (Rate) dated: 26.07.2018 has inserted a clause (iv) which reads as below:

*“(iv) For removal of doubts, it is clarified that the Central and State Educational Boards shall be treated as Educational Institution for the limited purpose of providing services by way of conduct of examination to the students.”.*

From the above clause it is evident that Karnataka Secondary Education Examination Board is an educational institution for the limited purpose of providing services by way of conduct of examination to the students.

11. The Applicant wants to know whether the activity of printing of question papers, admit cards, answer booklets, SSLC Pass Certificate, Fail Marks cards, etc on behalf of educational institutions constitutes a supply of service. The applicant states that the printing activity is done by third party, which makes the applicant recipient of services and not the supplier of the services.

12. The applicant wants to know whether the incidental services like scanning of answer booklets and converting the same into digital images, hiring of light motor vehicles and heavy motor vehicles for transportation of examination materials, annual maintenance of computers and equipment, obtaining the services of programmers and technical staff for examination related work and obtaining Group ‘D’ staff, Drivers, Data Entry Operators, Security Guards & House Keeping services related for SSLC Examination work etc, provided to or performed on behalf of educational institutions are subjected to Nil rate of tax. The applicant has submitted sample agreements signed between the KSEEB and the Third party to procure incidental services mentioned above. After going through the agreements, we observe that the Applicant is not the supplier but the recipient of services.

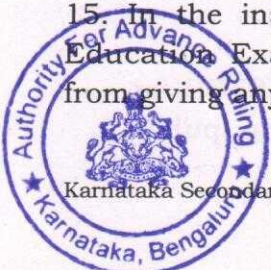
13. Now we invite reference to Section 95(a) of the CGST Act 2017, which defines “advance ruling” to mean

*a decision provided by the Authority or the Appellate Authority to an applicant on matters or on questions specified in sub-section (2) of section 97 or sub-section (1) of section 100, in relation to the supply of goods or services or both being undertaken or proposed to be undertaken by the applicant;*

Further, Section 95 (c) of the CGST Act 2017 defines “Applicant” as any person registered or desirous of obtaining registration under the said Act.

14. It could be easily inferred from above that any person registered or desirous of obtaining registration under CGST Act 2017 can seek advance ruling only in relation to the supply of goods or services or both being undertaken or proposed to be undertaken.

15. In the instant case, we observe that the Applicant, i.e Karnataka Secondary Education Examination Board, is not a supplier. Thus the Authority refrains itself from giving any ruling in respect of the same.





16. In view of the foregoing, we pass the following

**R U L I N G**

- i. *The Applicant is an "Educational institution" for the limited purpose of providing services by way of conduct of examination to the students, as per clause (iv) of Notification No.14/2018-Central Tax (Rate) dated: 26.07.2018.*
- ii. *This question cannot be answered for the reasons mentioned supra.*
- iii. *This question cannot be answered for the reasons mentioned supra.*

  
(Dr. M.P. Ravi Prasad)

**Member**

Karnataka Advance Ruling Authority

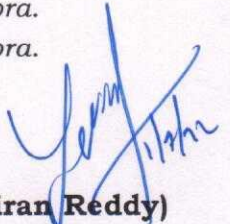
Place: Bengaluru - 560 009

Date: 01-07-2022

To,  
The Applicant

Copy to:

1. The Principal Chief Commissioner of Central Tax, Bangalore Zone, Karnataka.
2. The Commissioner of Commercial Taxes, Karnataka, Bengaluru.
3. The Assistant Commissioner of Commercial Taxes, LGSTO-130, Bengaluru.
4. Office Folder.

  
(T. Kiran Reddy)

**Member**

**MEMBER**

Karnataka Advance Ruling Authority  
Bengaluru - 560 009

